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April 6, 2018

By ECF

Magistrate Judge A. Kathleen Tomlinson
United States District Court
Eastern District of New York
100 Federal Plaza
Central Islip, New York 11722

Re: *W.S. Badger Company, Inc. v. CMX Process Technologies, LLC*,
Civ. No 16-1291 (JFB) (AKT) (E.D.N.Y.)

Dear Judge Tomlinson:

This firm represents plaintiff W.S. Badger Company, Inc. (“Badger”) in the above-referenced matter. Pursuant to Your Honor’s Order dated April 3, 2018, we submit this joint status report on behalf of all parties that have appeared in the case.

On June 6, 2017, while the parties were engaged in active settlement discussions, defendant Doug Cohen filed a voluntary petition for relief from his creditors pursuant to chapter 13 of the Bankruptcy Code (*see In re Doug Cohen*, Case No: 17-73474-ast (Bankr. E.D.N.Y.)) (the “Bankruptcy Action”). By Order of the Bankruptcy Court dated October 15, 2017, the case was converted to one under chapter 11 of the Bankruptcy Code. Mr. Cohen’s bankruptcy filing operated as an automatic stay as to the claims against him pursuant to 11 U.S.C. § 362.

Mr. Cohen and Badger are each represented by counsel in the Bankruptcy Action. In coordination with counsel in this matter, bankruptcy counsel negotiated a resolution of Badger’s claims that would result in dismissal, with prejudice, of the claims in this case. The Bankruptcy Court has approved that settlement as part of the Plan of Reorganization. Our understanding is that the Bankruptcy Action is in its final stages – it is expected that the Bankruptcy Court will confirm the Plan of Reorganization within approximately one month. Assuming the Plan of Reorganization is approved, the parties will file a stipulation of dismissal in this action.

Although defendant CMX Process Technologies, LLC (“CMX”) is not a party to the Bankruptcy Action, CMX is presently in default, is no longer operating, and, according to the information available to undersigned counsel, has no assets. Accordingly, all parties and their attorneys have agreed that the most efficient course is to resolve and dismiss the claims against CMX in connection with the Bankruptcy Action settlement.

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Assuming that the Bankruptcy Action concludes as we expect, the parties will timely file a stipulation of dismissal in this case pursuant to the Settlement Agreement. If circumstances change and it is necessary to litigate this case, we will promptly notify Your Honor.

We thank Your Honor for your consideration of this letter and would be happy to answer any questions.

Very truly yours,



Alexander Goldenberg

cc: Kenneth Seidell, Esq. (by ECF)